

September 2023

Family Separation at the U.S. Border: History, Impact, and Solutions for Humanitarian Approach

Kara M. Ashworth

Texas Tech University, cynthia.l.miller@ttu.edu

Cynthia L. Miller

Texas Tech University, cynthia.l.miller@ttu.edu

Follow this and additional works at: <https://newprairiepress.org/urjhs>



Part of the [Family and Consumer Sciences Commons](#), and the [Social Justice Commons](#)

Recommended Citation

Ashworth, Kara M. and Miller, Cynthia L. (2023) "Family Separation at the U.S. Border: History, Impact, and Solutions for Humanitarian Approach," *Undergraduate Research Journal for the Human Sciences*: Vol. 16: Iss. 1.

This Literature Review is brought to you for free and open access by New Prairie Press. It has been accepted for inclusion in Undergraduate Research Journal for the Human Sciences by an authorized administrator of New Prairie Press. For more information, please contact cads@k-state.edu.

Family Separation at the U.S. Border: History, Impact, and Solutions for Humanitarian Approach

Cover Page Footnote

Cynthia L. Miller <https://orcid.org/0000-0002-2883-6294> Kara is a senior undergraduate student in the University Studies program at Texas Tech University. She served as an undergraduate researcher for this article. We have no known conflict of interest to disclose. Correspondence concerning this article should be addressed to Cynthia L. Miller, Texas Tech University, Family & Consumer Sciences Education, 1301 Akron Avenue, Lubbock, TX 79409. Email: cynthia.l.miller@ttu.edu

Family Separation at the U.S. Border: History, Impact, and Solutions for Humanitarian Approach

Introduction

Separation of Immigrant Children from Parents

The separation of immigrant children from their parents who are seeking asylum has had a significant and detrimental impact on these children's mental health and attachment development. Separating children from their families can cause significant psychological distress, including symptoms of anxiety, depression, and post-traumatic stress disorder (PTSD). (Cohen, 2019). Younger children are more sensitive to the stress of family separation than older children because they are more dependent on their parents for safety and security, but all ages suffer from the repercussions (Cohen, 2019). The American Academy of Pediatrics stated in a report that "the psychological distress associated with separation may be compounded by the uncertainty surrounding reunification with family members" (American Academy of Pediatrics, 2017). Furthermore, children who have endured trauma or abuse in their own countries or while migrating sometimes lack access to proper mental health treatments in detention facilities. Beyond immediate trauma, this detention experience can have long-lasting impacts, making children more susceptible to conditions like depression, anxiety, and PTSD in adulthood (Cohen, 2019).

From a developmental psychology perspective, stable attachments to primary caregivers during childhood are foundational to healthy emotional, social, and even cognitive development (Gee and Cohodes, 2021). Young children's separation from their primary caregiver harms their emotional and physical wellbeing. This includes difficulties in trust, self-soothing, and forming meaningful relationships due to the loss of their key relationship (Coyle, 2018). When there are disruptions in a child's life, an "insecure attachment can lead to difficulty tolerating stress, poor control of anger, [and] difficulty in maintaining stable relationships" (Coyle, 2018, para 18).

Being placed in unfamiliar environments, often with individuals from different cultural or linguistic backgrounds, can also exacerbate feelings of isolation and confusion (Coyle, 2018). Seeing fear on their caregiver's face can trigger lasting cognitive, emotional, and physiological impacts. In recent months, at least seven children have either died in custody or after being detained by federal immigration agencies at the border (American Civil Liberties Union, 2019). Every child should be kept with their family during the immigration process for all these reasons. In response to these concerns, there have been pushes for alternative solutions to detention, such as community-based sponsorship programs, family case management, or other forms of supervised release (Miller, 2018).

History of Family Detention Centers

The issue of family separation at the United States border has a long and complex history. In the early 2000s, an increase in families, primarily from Central America, arrived at the U.S. border (Ryo & Peacock, 2018). Before this, most migrants were single adults from Mexico. In 2006, the U.S. opened its first family detention center in Taylor, Texas, called the T. Don Hutto Residential Center (Ryo & Peacock, 2018). Initially, it faced criticism for its prison-like conditions, which led to legal challenges and eventual reforms. By 2009, the Obama administrations largely phased out large-scale family detention (Eagly, Shafer, & Whalley, 2018). In 2014, a significant increase in unaccompanied children and family units arriving at the border led the Obama administration to expand family detention again (Eagly, Shafer, & Whalley, 2018). This was seen as a way to deter others from making the journey. However, the U.S. Department of Justice (DOJ) and the Department of Homeland Security (DHS) announced a partnership in April 2018 during President Trump's administration stating they intended to prosecute anyone caught crossing the border without authorization. This effectively established

the "zero tolerance" policy, which led to the widespread separation of families (Eagly, Shafer, & Whalley, 2018). Adults were prosecuted for illegal entry, and their children were placed in separate facilities. Attorney Jeff Sessions warned potential immigrants about family separation stating to parents and relatives of young children that they should not "bring them across the border illegally" (Horwitz & Sacchetti, 2018). The public outcry and legal challenges led President Trump to sign an executive order in June 2018 to end the separation practice, but by then, thousands of children had already been separated from their parents (Horwitz & Sacchetti, 2018). This also led to extreme hardship, confusion, and trauma for immigrant families and their loved ones. Adult family members were waiting for a backlogged system to provide them with a fair trial on their asylum cases (Horwitz & Sacchetti, 2018). During the Trump administration, there were over 5,500 families who were separated, and some estimates indicate that parents of more than 600 children had not been located by the year 2021 (PBS, 2022).

After taking office in January 2021, President Joe Biden signaled a desire to move away from detention for families and to end the "Remain in Mexico" policy (formally known as the Migrant Protection Protocols) (Chishti & Bolter, 2022). However, his administration has also grappled with surges in arrivals and has faced criticism from various angles on its handling of border issues (Chishti & Bolter, 2022).

Real-Life Examples of Traumatic Family Separation

More than 3,800 children were separated from families at the border between 2017 and 2021 as an implication of the "zero tolerance" border security (Southern Poverty Law Center, 2022). The family separations that occurred at the U.S.-Mexico border as part of the Trump administration's "zero tolerance" policy have been well-documented in the media and through

various human rights organizations. The following are real-life examples and stories that have been shared publicly:

- A Honduran father took his own life in a Texas jail after being separated from his wife and 3-year-old child after they crossed the border (Miroff, N., 2018). Reports suggested he became distraught after the separation.
- A Honduran woman claimed that her infant daughter was taken from her as she breastfed her in a detention center (Lavandera, Morris, & Simon, 2018). This particular story gained significant attention in the media.
- There were several reports of parents being deported back to their home countries while their children remained in U.S. custody. One example is a mother from Guatemala who was separated from her 8-year-old daughter for 8 months before being reunited in their home country (Silva, 2019).
- Many families reported not knowing where their loved ones were taken, with parents and children unable to communicate for weeks or even months. For instance, a father from El Salvador was separated from his son and had no idea of his whereabouts for two and half months, only being reunited after a federal judge ordered the government to reunify separated families (Quiroz, Martin, & Whelan, 2021).

These are only a few of the thousands of stories immigrants have that tells of their experience of being separated from their families; thereby, highlighting the human impact of the family separation policy. An immigration law researcher Bill Aken said via phone interview, “The issue of illegal immigration and family separation that comes from the border affects nearly every single American in one way or another” (Personal Communication, February 20, 2023).

Current Administrative Efforts to Prevent Family Separation

While the Biden administration has made efforts to address the issue of family separation, challenges remain. There have been surges in border crossings, and the administration has faced both political and logistical hurdles in managing immigration and border policies effectively and humanely (PBS, 2023). In 2021, “a record 122,000 children were taken into U.S. custody without their parents” (Bryant, 2022, para 2). Title 42, initially used by the Trump administration during the pandemic to deny asylum seekers entry to the U.S. is still employed to expel adult asylum seekers (Bryant, 2022). While the Biden administration has exempted unaccompanied children from Title 42, children arriving with families are still expelled (Bryant, 2022). Consequently, parents sent back to Mexico often choose to send their children alone back to the U.S. to avoid dangerous conditions and to classify them as unaccompanied. In 2021, 12,212 children reentered the U.S. alone after being expelled with their families under Title 42, resulting in traumatic and avoidable separations (Bryant, 2022). Asylum should be accessible for entire families.

Additionally, Daniel Dale of CNN reports that according to spokesperson Marsh Espinosa,

Children are not separated from their parents unless there is a medical emergency, child welfare concerns, or public safety concerns, including a serious criminal background, warrant or referral for prosecution, or national security interests (Dale, 2021, p. 3).

Children are now be taken from their families under President Biden's administration if a parent has a criminal background, a health condition, or is facing criminal charges (Rozensky, 2022). Furthermore, the Biden administration has halted settlement talks and sought to dismiss compensation claims from families who experienced separations due to the Trump

administration's Zero-Tolerance border policy (Rozenky, 2022). Children seeking refuge should not face further trauma by the U.S. government. There's a need for policies that safeguard children and preserve family unity.

Discussion

What Can Be Done to Lessen Family Separations at the U.S. Border?

Based on the arguments and evidence provided, separating immigrant families, especially under distressing conditions, is considered a violation of human rights. Every individual has the right to family life, and separating immigrant families compromises this fundamental right. Immigrant children are particularly vulnerable because it can result in severe emotional and psychological trauma, which may have long-lasting effects on a child's development and well-being. As a nation that often promotes values of family, freedom, and human dignity, the U.S. holds a moral responsibility to ensure that its policies do not deliberately harm families. Until the federal government develops a comprehensive immigration policy, pro-family solutions should be considered because they emphasize the importance of keeping family units intact and prioritize the welfare of children. The authors are recommending the following pro-family solutions to prevent further family separations at the U.S. borders:

- 1) ***Increase Legal Immigration Pathways***: Expanding legal avenues for migration and asylum can reduce pressures on the border and lessen the likelihood of family separations resulting from irregular crossings.
- 2) ***Reform Asylum Procedures***: Streamlining and humanizing the asylum-seeking process can help prevent unnecessary detentions and separations.
- 3) ***Expand Social Services and Legal Representation***: Providing families with access to legal counsel and social services can help them navigate the complex U.S.

immigration system, reducing the risk of separations due to misunderstandings or administrative errors.

There are currently 1.3 million pending asylum applications, and the average asylum case in immigration court now take 4.25 years from start through a final hearing (American Immigration Council, 2023). To increase legal immigration pathways, the U.S. must expand the Customs and Border Protection (CBP) Office of Field Operations' capacity to process asylum seekers at the ports of entry in a timely, orderly, and fair manner, and publicize this route. By offering a safe and organized entry method, the government can reduce irregular entries, decrease the exploitation of migrants by criminal organizations, and create a more structured process for the U.S. government (American Immigration Council, 2023).

As the government plans to phase out Title 42 by May 2023, alternative asylum processing methods should be established for those without CBP One appointments, an app that was implemented by the federal government. This could involve collaborating with Mexico to improve infrastructure or introducing kiosks for appointment scheduling. The agency should focus on refining the CBP One app, addressing biases, adding more languages, and expanding appointment slots to prevent family separations (American Immigration Council, 2023). To ensure transparent expansion of asylum processing, oversight by the DHS Office of Inspector General (OIG) and the DHS Office for Civil Rights and Civil Liberties (CRCL) is essential. Furthermore, the State Department should collaborate with the Mexican government, United Nations High Commissioner for Refugees (UNHCR), and International Organization for Migration to enhance shelter capacity in Mexico using various funding sources and ensuring security (American Immigration Council, 2023). Improved housing options in Mexico would lessen the urge for individuals to cross irregularly.

Second, throughout fiscal year 2022, the affirmative asylum backlog grew by more than 16,000 cases per month, topping 600,000 for the first time (U.S. Department of Homeland Security, 2023). In May 2022, the Biden administration piloted a new asylum process where most asylum seekers undergo asylum merits interview with U.S. Citizen and Immigration Services (USCIS) officers instead of being directed to immigration courts (American Immigration Council, 2023). Instead of a two-step process of a credible fear interview followed by a formal asylum application, the credible fear interview now serves as the preliminary asylum application (American Immigration Council, 2023). If passed, the seeker is sent to a USCIS officer for an "asylum merits interview" within 60 days. Successful candidates are granted asylum immediately, while those who are denied enter expedited removal proceedings, taking 60 to 135 days (American Immigration Council, 2023). From June 2022 to January 2023, out of 3,825 people in the program, only 6.6% were granted asylum (U.S. Department of Homeland Security, 2023). Meanwhile, 48.8% were ordered removed post credible fear interview (U.S. Department of Homeland Security, 2023). The rest had pending or temporarily suspended cases. The system has concerns, as the fast pace may limit asylum seekers' access to proper counsel. However, with adjustments, some believe this approach has potential for future asylum processing.

DHS is urged to reconsider the timeline for the interim final rule introduced in May 2022 which aims to complete the asylum process within six months (American Immigration Council, 2023). Given the constraints on legal services and limited support, this timeline is too short for most asylum seekers to adequately prepare, especially without work authorization. A more feasible timeframe would be at least a year. While the system may function faster under ideal circumstances, the current system doesn't allow for this. The new rule simplifies the asylum

application process and potentially reduces immigration court backlogs. However, to address the significant backlog, funding should be directed towards hiring more asylum officers. With the allocated \$250 million budget for backlog reduction, emphasis should be on staffing adequately to finalize asylum decisions within a year (American Immigration Council, 2023). It's crucial to maintain fairness in processing claims, ensuring seekers understand the process. Access to legal advice is vital. USCIS should also consider hosting asylum interviews in locations other than the designated 12 Asylum Offices, reducing travel for applicants. Video conferencing might be an option for those with counsel, given the applicant's consent.

Lastly, expanding social services and legal representation for immigrant families requires a multi-faceted approach involving policy changes, funding allocation, community engagement, and collaboration between different stakeholders. In 2020, the American Immigration Council and Women's Refugee Commission (2021) conducted a survey on community support services for immigrants, encompassing areas like legal aid, medical care, mental health, and more. Over 244 organizations, ranging from national service providers to regional entities, responded. A subsequent meeting in January 2021 gathered over 220 participants to discuss the challenges and achievements of such services, emphasizing the critical need for legal counsel. Key insights from this survey include (American Immigration Council, 2021):

- It showcased a nationwide capability and expertise in offering diverse services to those navigating the immigration process. Despite the evident skills, there is a chronic underfunding issue.
- Services frequently offered by these organizations include immigration legal aid, social and housing assistance.
- Collaboration is vital since not all organizations provide all types of services.

- Over two-thirds of the organizations are keen on expanding their services but cite financial constraints as a significant barrier.
- An anticipated reversal of Trump-era policies, which had restricted access to asylum, coupled with the effects of COVID-19, are expected to boost demand for these services.
- Of the respondents, 70% offer long-term services to those settled at their final destinations; half provide short-term services like temporary housing or transport post-release from detention or the border; and 42% offer both.
- There's a variance in service capacity: 34% serve over 500 people annually with at least one service, while 37% serve fewer than 50 individuals. The discussions highlighted a strong appetite for collaboration between entities regardless of their size or capacity.

Amid an urgent call to reform the U.S. immigration system and end detentions, recent survey findings and a national meeting highlight the considerable potential for change. Existing reports present lessons and best practices from both the U.S. and international perspectives, emphasizing the chance for improvement. The survey indicates the vast range of available services and the enthusiasm for expansion. The growth of these services should focus on the genuine needs of the individuals and families, gauging success not by strict enforcement but by how effectively one transitions through the immigration process and settles in the community.

It's essential to focus discussions on the trusted community organizations serving immigrants to determine how best to address the identified needs and amplify existing best practices. Policymakers, legislators, and financial backers have the chance to redefine the role of these services in the broader context of immigration. The newly funded DHS Office for Civil

Rights and Civil Liberties (CRCL) community support services pilot is seen as a hopeful step towards a revamped strategy, potentially leading to funding community support beyond DHS. The recommendation is for the Biden administration and congressional appropriators to cease detentions and unsuitable surveillance programs, directing investments towards expanding the community-based support services currently in place through the Case Management Pilot Program developed by the DHS.

Conclusion

The separation of immigrant families, especially under distressing circumstances, is a violation of human rights, as everyone deserves the right to a united family. This separation is particularly damaging to immigrant children, who may suffer long-term emotional and psychological trauma that can impede their development. The U.S., which prides itself on championing family values, freedom, and human dignity, must uphold these principles by reframing its immigration policies to be family-centric. The presented evidence underscores the importance of pro-family solutions such as expanding legal immigration pathways, reforming asylum procedures, and expanding social services and legal representation for immigrant families. Implementing these recommended solutions is not only essential for upholding the country's values, but it also stands as a testament to its commitment to human rights and the well-being of immigrant families seeking refuge.

References

- American Academy of Pediatrics. (2017). Detention of immigrant children. *Pediatrics*, 139(5).
<https://doi.org/10.1542/peds.2017-0483>
- American Immigration Council. (2023). *Beyond a border solution*.
<https://www.americanimmigrationcouncil.org/research/beyond-border-solutions>

- American Immigration Council. (2021). *Community support for migrants navigating the U.S. immigration system*. <https://www.americanimmigrationcouncil.org/research/community-support-migrants-navigating-us-immigration-system>.
- Chishti, M., & Bolter, J. (2022). *Biden at the one-year mark: A greater change in direction on immigration than is recognized*. Migration Policy Institute. <https://www.migrationpolicy.org/article/biden-one-year-mark>
- Cohen, A. (2019). *Trauma caused by separation of children from parents*. American Bar Association. https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/child-separation-memo/parent-child-separation-trauma-memo.pdf
- Coyle, S. (2018). Children and families forum: The impact of immigrant family separation. *Social Work Today*, 18(5), 8.
- Dale, D. (2021, March 17). *Fact-checking homeland security secretary Alejandro Mayorkas' claims about the border situation*. CNN Facts First. <https://www.cnn.com/2021/03/17/politics/fact-check-mayorkas-border-statement-mexico-migrants/index.html>
- Eagly, I., Shafer, S., & Whalley, J. (2018). *Detaining families*. <https://www.americanimmigrationcouncil.org/research/detaining-families-a-study-of-asylum-adjudication-in-family-detention>
- Gee, D. G., & Cohodes, E. M. (2021). Caregiving influences on development: A sensitive period for biological embedding of predictability and safety cues. *Curr Dir Psychol Sci*. 30(5), 376-383. doi:10.1177/09637214211015673.
- Horwitz, S., & Sacchetti, M. (2018, May 8). *Sessions vows to prosecute all illegal border crossers and separate children from their parents*. The Washington Post. https://www.washingtonpost.com/world/national-security/sessions-says-justice-dept-will-prosecute-every-person-who-crosses-border-unlawfully/2018/05/07/e1312b7e-5216-11e8-9c91-7dab596e8252_story.html
- Lavandera, E., Morris, J., & Simon, D. (2018, June 14). *She says federal officials took her daughter while she breastfed the child in a detention center*. <https://www.cnn.com/2018/06/12/us/immigration-separated-children-southern-border/index.html#:~:text=The%20undocumented%20immigrant%20from%20Honduras,for%20entering%20the%20country%20illegally>
- Miller, D. (2018). *Pediatricians speak out: Detention is not the answer to family separation*. AAP News. <https://publications.aap.org/aapnews/news/12792?autologincheck=redirected>
- Miroff, N. (2018, June 11). *Honduran father who died in Texas jail was fleeing violence, consul says*. The Washington Post. <https://www.washingtonpost.com/world/national->

[security/honduran-father-who-died-in-texas-jail-was-fleeing-violence-consul-says/2018/06/11/89c3c2ac-6daa-11e8-bd50-b80389a4e569_story.html](https://www.pbs.org/newshour/show/honduran-father-who-died-in-texas-jail-was-fleeing-violence-consul-says/2018/06/11/89c3c2ac-6daa-11e8-bd50-b80389a4e569_story.html)

PBS (Producer). (2022). *How a Trump-era policy that separated thousands of migrant families came to pass* [Video]. PBS NewsHour. <https://www.pbs.org/newshour/show/how-a-trump-era-policy-that-separated-thousands-of-migrant-families-came-to-pass>

PBS (Producer). (2023). *Hundreds of migrant children remain separated from families despite push to reunite them* [Video]. <https://www.pbs.org/newshour/show/hundreds-of-migrant-children-remain-separated-from-families-despite-push-to-reunite-them>

Quiroz, L., Martin, R., & Whelan, C. (2021, June 22). *Separated at the border, a father reunites with his son. But struggles remain*. National Public Radio (NPR). <https://www.npr.org/2021/06/15/1006477931/how-families-separated-at-the-border-by-trump-policies-are-coping>

Rozensky, J. (2022). *The Biden administration routinely separates immigrant families*. National Immigrant Justice Center. <https://immigrantjustice.org/staff/blog/biden-administration-routinely-separates-immigrant-families>

Ryo, E., & Peacock, I. (2018). *The landscape of immigration detention in the U.S.* American Immigration Council. <https://www.americanimmigrationcouncil.org/research/landscape-immigration-detention-united-states>

Silva, D. (2019, January 18). *Guatemalan mom and America-born daughter reunited after 8 months apart*. NBC News. <https://www.nbcnews.com/news/latino/guatemalan-mom-american-born-daughter-reunited-after-8-months-apart-n959846>

Southern Poverty Law Center. (2022). *Family separation: A timeline*. <https://www.splcenter.org/news/2022/03/23/family-separation-timeline>

U.S. Department of Homeland Security. (2023). *Asylum processing rule cohort reports*. U.S. Citizenship and Immigration Services. <https://www.dhs.gov/immigration-statistics/special-reports/asylum-processing-rule-report>